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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,748	02/25/2004	Rob Woollen	BEAS-01433US1	2991

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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

EXAMINER	
YIGDALL, MICHAEL J	
ART UNIT	PAPER NUMBER
2192	
MAIL DATE	DELIVERY MODE
07/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/786,748	Applicant(s) WOOLLEN ET AL.	
	Examiner Michael J. Yigdall	Art Unit 2192	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1,4,6-8,10,11,14,16-18,20,21,24,26-28 and 30-33*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 4/2/07
13. ☐ Other: _____.

Continuation of 3.

The proposed amendment broadens the scope of the claims, and thus may necessitate changes to the explanations presented in the final Office action, and in any event would not avoid the rejections made under 35 U.S.C. 103(a). Thus, the proposed amendment does not place the application in condition for allowance or in better form for appeal.

Note that the proposed amendment does not address the objection to claim 11 as set forth in the final Office action.

Note that the information disclosure statement (IDS) filed on April 2, 2007 was filed after the mailing date of the final Office action on February 1, 2007, and thus falls within the period set forth in 37 CFR 1.97(d). Applicant instead designated 37 CFR 1.97(c), and omitted the necessary statement as set forth in 37 CFR 1.97(e). Accordingly, the IDS has not been considered.

Continuation of 11.

Furthermore, Applicant's arguments are not persuasive.

Applicant contends that in Berg, "each of the projects within the container project appear to include previously compiled code, including WAR and JAR archives, so that the container project as a whole contains a hierarchy of previously compiled projects and archives," while in claim 1, "the split directory structure includes both a source folder that stores editable source files as part of the software application, and a corresponding output folder that stores compiled files as part of the software application" (remarks, page 10).

However, the language of the claims does not patentably distinguish them over the references. As set forth in the Office action, the container project of Berg represents a split directory structure (see, for example, paragraph [0025], lines 1-7). As Applicant notes, it includes a hierarchy of compiled files (i.e., at least one "output folder" that stores compiled files). Furthermore, the container project is developed in an IDE (see, for example, paragraph [0026], lines 1-3), and includes a source folder that stores editable source files (see, for example, paragraph [0008], lines 1-7). The files are considered editable source files at least because "as they are stored in the IDE, ... the programmer can debug and modify [them]" (paragraph [0009], lines 6-9).

Applicant contends, "Rich appears to be directed to allowing users to access archives at runtime, subsequent to deployment," and that in claim 1, "during deployment the server recognizes the split directory structure and deploys the application by making requests to the virtual file which checks both the source folder and the corresponding output folder for software application files, before deploying the software application files to the server" (remarks, page 11).

However, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. Furthermore, the test for obviousness is not that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981), and In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

As set forth in the Office action, Berg teaches that the server recognizes the split directory structure during deployment and checks the split directory structure for software application files (see, for example, paragraph [0027], lines 3-9 and paragraph [0029], lines 1-5). Berg does not expressly disclose merely that the split directory structure is accessed as a virtual JAR file that provides an abstraction over the split directory structure. Nonetheless, Rich teaches a virtual archive that provides an abstraction over a directory structure (see, for example, paragraph [0019], lines 1-11), and teaches such archives in the form of JAR files (see, for example, paragraph [0005], lines 1-22 and paragraph [0007], lines 1-11). Thus, the combination of Berg and Rich teaches or suggests that the server recognizes the split directory structure during deployment and checks a virtual JAR file for the software application files. In fact, Berg appreciates that "a solution is needed which integrates the development environment with the application server such that the server can use the files as they exist in the projects of the development environment" (paragraph [0010], lines 20-24).

MY

TUAN DAM
SUPERVISORY PATENT EXAMINER